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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCA LOPEZ LEMUS,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-76768

Agency No. A72-111-331

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Francisca Lopez-Lemus, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order summarily affirming an immigration judge's ("IJ") decision denying her application for asylum. To the

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252(a)(1). We review for substantial evidence, *Molina-Morales v. INS*, 237 F.3d 1048, 1050 (9th Cir. 2001), and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the IJ's determination that Lopez-Lemus was not eligible for asylum because she failed to show that her assault, the continued threats, and the abduction of her children, constituted persecution "on account of" a political opinion imputed to her by the guerillas. *See Ochave v. INS*, 254 F.3d 859, 865 (9th Cir. 2001). Although Lopez-Lemus's fear of continued retribution by the guerillas may be genuine, she failed to offer any evidence that supports, much less compels, a conclusion that her assailants pursued her for any other reason than to silence a witness to their crime. *See Molina-Morales*, 237 F.3d at 1052 (stating that personal retribution is not persecution on account of political opinion).

Even if Lopez-Lemus had been able to show that she was persecuted on account of a protected ground, substantial evidence supports the IJ's determination that changed country conditions in Guatemala undermine the petitioner's fear of future persecution. *See Gonzalez-Hernandez v. Ashcroft*, 336 F.3d 995, 998-99 (9th Cir. 2003) (holding that the State Department Country Report constituted

substantial evidence to support the BIA's finding of changed country conditions in Guatemala).

We lack jurisdiction to consider Lopez-Lemus's contention that she is eligible for a special humanitarian grant of asylum based on the severity of her past persecution because Lopez-Lemus failed to exhaust that claim before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 676 (9th Cir. 2004).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DISMISSED in part; DENIED in part